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BY ECF

Honorable Philip M. Halpern
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: Zherka v. Garland, 20 Civ. 7469 (PMH)

Dear Judge Halpern:

The undersigned represents plaintiff Selim “Sam” Zherka in the above-referenced action. On July 16, 2021, we advised the Court of a split panel decision from the Fourth Circuit in *Hirschfeld, et al. v. Bureau of Alcohol, Tobacco, Firearms & Explosives, et al.*, 5 F.4th 407 (4th Cir. 2021). In *Hirschfeld*, the Fourth Circuit had reversed the district court’s grant of a motion to dismiss and held that federal restrictions on the rights of 18-20 year olds to purchase firearms from licensed dealers violate the Second Amendment.

Thereafter, the Government in that case filed a timely petition for rehearing *en banc*; but before the matter could be heard, the only remaining plaintiff in the action turned 21 years old. Last month the same panel accordingly vacated both the prior panel’s decision as well as the decision of the district court as moot. *See Hirschfeld, et al. v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, No. 19-2250, slip op. (4th Cir. September 22, 2021) (available at <https://www.ca4.uscourts.gov/opinions/192250A.P.pdf>).

The effect of all of which is simply that the prior panel decision from the Fourth Circuit is no longer of any precedential value in that circuit, but retains, of course, what it was cited to this Court for – namely, its persuasive force. *See id.* slip op. at 7; *cf.* slip op. at 8 (Wynn, J., concurring in result to vacate).

Respectfully submitted,

/s/ Robert W. Ray

Robert W. Ray

cc: AUSA Lucas Issacharoff, Esq. (By ECF)